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OFFICE OF PETITIONS

In re Application of :
Suess : DECISION ON PETITION
Application No. 10/733,525 :
Filed: December 9, 2003 :
Atty. Dkt. No.: SUES-002 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 6, 2007. This decision corrects the decision mailed April 19, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned March 29, 2005 for failure to timely submit a proper reply to the final Office action mailed December 28, 2004. The final Office action set a three month period of time for reply. Notice of Abandonment was mailed July 7, 2005.

Petitioner alleges non-receipt of the final Office action mailed December 28, 2004.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from petitioner stating that the Office communication was not received by petitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in petitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the

Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

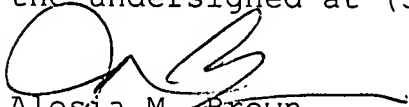
Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Upon further review of the arguments and supporting documentation presented by petitioner, the conclusion is drawn that the final Office was not received by applicant.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions